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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/823,665

04/14/2004

Waichi Yamamura

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EXAMINER

LAZORCIK, JASON L

ART UNIT

PAPER NUMBER

1791

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/823,665	Applicant(s) YAMAMURA, WAICHI	
	Examiner JASON L. LAZORCIK	Art Unit 1791	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 December 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1, 4, 5 and 7-11.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/Jason L Lazorcik/
 Primary Examiner, Art Unit 1791

Continuation of 3. NOTE: Applicants proposed amendments alter the scope of independent claim 1 thereby affecting the scope of each of dependent claims 7-11 in a manner which has not been previously considered by the Examiner. It therefore follows that the proposed amendments will necessitate further search and/or consideration.

Applicant is further advised that claim 5 as presented in the proposed amendments depends from cancelled claim 4. Corrective action will be required..

Continuation of 11. does NOT place the application in condition for allowance because: Applicants request for reconsideration has been fully considered but the arguments presented therein are not deemed to be persuasive.

Argument 1)

Applicant alleges that the hydrofluoric acid (HF) treatment in the admitted prior art is for purposes of removing free or fixed grains on the glass body and that the Charles process is employed to strengthen the glass body. Applicant asserts that since the HF treatment of the prior art is used for a different purpose than the steam treatment of Charles, then one of ordinary skill would not consider substituting the Charles steam treatment for the admitted prior art HF acid treatment.

In response, it would appear that Applicant has misconstrued the basis of the rejection as presented in the Official Action. Specifically, as noted on page 4 of the Official Action, Charles recognizes that it is advantageous to substitute or supplement a HF acid treatment with a steam treatment when treating abraded glass bodies. The mere observation that Applicant has recognized a beneficial reduction in particulate matter upon treating a glass body with HF acid or steam does not materially detract from the fact that Charles explicitly recognizes another advantage to be gained from substituting or supplementing an HF treatment with a steam treatment. Therefore, in response to applicant's argument that Charles does not teach reducing surface particulate material, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Argument #2)

Applicant alleges that the steam treatment of Stookey is "completely different" from that used in Charles. Specifically Applicant argues that the steam temperature conditions in Stookey are used to transform the glass to a rubbery product while that in Charles is used to strengthen the glass body. Applicant Thereby concludes that one of ordinary skill would never consider employing the Stookey steam conditions in the Charles process.

In response, Applicant is advised that the instant argument is predicated upon the assumption that the "rubberized" glass resulting from the Stookey process does not result in a strengthened glass body which is consistent with the Charles teachings. This argument is however not deemed persuasive. Specifically Stookey teaches a range of steam conditions which overlap the conditions employed in the Charles process. That is, since the Stookey process conditions overlap with those employed in the Charles steam treatment, it would appear evident to the Examiner that the Stookey "rubberized" glass layer also reasonably results in an increase in the strength of the glass body over at least a range of the disclosed conditions as evidenced by the Charles disclosure. It follows that Applicants argument alleging that the two processes are "completely different" is not persuasive and that one of ordinary skill would have at the very least found it "obvious to try" the conditions employed by Stookey in the Charles glass treatment process.

Argument #3)

Applicant alleges that the Examiner has no basis to conclude that the steam temperature range of 120-160°C is obvious based upon the range of about 190-260°C recited in the Charles reference.

Applicants arguments on this matter have been previously considered and fully addressed on pages 13-15 of the Official Action dated July 21, 2009. The Official position stands as previously presented.

Argument #4)

Applicant alleges that Stookey fails to teach a drying step. In support of this position, Applicant alleges that Stookey does not explicitly teach that the autoclave is operated with just a flow of air once the steam treatment is terminated and that "the only reasonable interpretation" of Stookey is that the flow of steam and air are terminated.

In response, the Examiner respectfully disagrees with Applicants assertion that the "only reasonable interpretation" of the Stookey reference is that both steam and air flows are terminated to the autoclave at the same time. Further, Applicant appears to have completely ignored the Examiners alternate rationale which would lead one of ordinary skill in the art to maintain a flow of air to the autoclave to assist rapid cooling of the glass body (see page 10, first paragraph of the July 21, 2009 Official Action). For at least these reasons, Applicants arguments on this matter are deemed unpersuasive.

Argument #5)

Applicant alleges that Takashashi reference does not teach jetting steam against a glass body, Applicant however presents no reasoned basis to support this allegation. For at least this reason, Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.